Appl. No. 09/638,570
Docket No. 7721M
Final Office Action dated August 22, 2007
Amendment dated November 20, 2007
Customer No. 27752

Remarks

In view of the above amendments and the following remarks, reconsideration of the present application is respectfully requested. Initially, Applicants thank and appreciate the time and effort expended by the Examiner so far in this case.

With this amendment, Applicants amend Claims 55, 58, 60, 61, 63, 73, and 77, cancel Claims 56, 62, 64, 66, 70, 72, 74, 76, 80, and 81 without prejudice, and offer new Claims 82-98. Consequently, Claims 55, 57-61, 63, 65, 67-69, 71, 73, 75, 77-79, and 82-98 are pending and under consideration in this application.

New Claims

New Claims 82-98 are being offered with this amendment. No new matter has been added in these new Claims, and support for these new Claims is found throughout the application, including specifically, but not limited to, page 12, lines 1-14 of the specification and Examples 8-10 of the specification. Consideration of these new claims is respectfully requested as they contain allowable subject matter.

Rejections Under 35 USC § 112

The Examiner has rejected all of the Claims under 35 USC § 112, 1st and 2nd paragraphs. The amendments noted above and the remarks below are believed to obviate these rejections under 35 USC § 112. Reconsideration in view of the amendments and remarks that follow is respectfully requested.

Specifically with respect to the 35 USC § 112, 1st paragraph, rejection, Claims 80 and 81 have been cancelled, so the rejection of those Claims is now moot. With respect to Claim 55, Example 8 supports this Claim, and thus new matter has not been introduced. Specifically, Example 8 recites brewing a roast and ground coffee with delayed filtering. The water and coffee of the example were allowed to be in contact with each other during a hold period during which the outlet of the steel basket of the brewer was plugged to delay the exit of the extract from the basket of the brewer. At 30 minutes, 100ml of the extract was allowed to be drained from the basket and therefore filtered from the remaining coffee grounds. This extract was diluted with water. At 35 minutes, a similar draining and filtering occurred followed by dilution with water. The remaining extract was likewise drained and filtered at 60 minutes. Applicants submit that this Example supports Claim 55 as now amended. Reconsideration is respectfully requested.

Specifically with respect to the 35 USC § 112, 2nd paragraph, rejection, Claims 80 and 81 have been cancelled, so the rejection of those Claims is now moot. With respect to Claim 55, it

has been amended to incorporate the limitation of dependent Claim 56. Applicants submit that this amendment overcomes the rejection. Reconsideration is respectfully requested.

Rejections Under 35 USC § 103

The Examiner has rejected all of the prior pending Claims under 35 USC § 103 as unpatentable in view of several references, all of which are of record in the Final Office Action in parts 6-9. In view of the above amendments, Applicants respectfully submit that the rejections under 103 have been overcome. However, in light of the multiple rejections and the multitude of references, and that the references have been used in prior Office Actions for various rejections, the Applicants have taken the time to review the references and submit the remarks below on the applicability of the references in view of the Claims as now amended. It should be understood that the comments hereinafter presented are not intended to limit the Claims as amended in any way but are only submitted to the Examiner in order to complement the understanding of the novelty of the present application and to expeditiously move prosecution along.

Regarding Delayed Filtration

The Delayed filtration in the present application is defined throughout the application as allowing the coffee extract/concentrate to stay in contact with the coffee grounds or tea leaves during holding of the extract. As illustrated in Examples 8-10, the brew solids are substantially constant during the hold periods with successive filtering and dispensing. The traditional brewing referenced applications (Kino; Anson; Jefferson, Jr; GB2111377; Sullivan; Coleman; Levinson; Cheng; and Borland) all teach away from Delayed Filtration, as described in the present application, by teaching a desired endpoint to brewing, which involves separation of extract from the coffee grounds. This endpoint is either time and or volume based.

With respect to Coleman (US 2,047,172), this reference teaches away from Delayed Filtration in stating that "Time of water contact is important because if the water remains in contact with the ground coffee for too long a period, even at ideal temperature, the heavier objectional constituents of the coffee will be carried off into the brew so the coffee brew will have a bitter taste an oftentimes a metallic taste." (page 1, column 1, line 33).

With respect to Sullivan (US 2,950,375), this reference teaches away from Delayed Filtration in stating that "By varying the temperature at which this shift is made the length of time required to bring the brew up to the final cut-off temperature and hence the length of time during which perking takes place is varied. There-by a variation in strength of the brew is obtained." (column 2, line 10).

With respect to GB 2 111 377, it teaches away from Delayed Filtration in stating that "Appropriate selective solution of the coffee extracts is properly effected when either some or all of the heated water remains in contact with the ground coffee for the selected brew time period, but substantially no longer than said selected period." (page 1, column 2, line 119).

With respect to Anson (US 5,584,229), this reference teaches away from Delayed Filtration in stating that "In use, the beverage appliance as shown in Fig. 3 produces a brewed beverage upon initiation of a brewing cycle. When a brewing cycle is initiated the controller 70 operates the control valve 58 over control line 71 to controllably admit a predetermined quantity of water from the pressurized feedline 60 to the first and second water sources 38, 40. The quantity of water is controlled by the controller 70 which includes a brew timer which begins the brew cycle." (column 6, line 44).

With respect to Jefferson, Jr. (US 5,980,965), it teaches away from Delayed Filtration in stating that "At the expiration of the brewing time, brewed coffee is released through an opening in the brewing chamber and into an underlying receptacle." (column 3, line 14).

With respect to Kino (US 6,231,907), this reference teaches away from Delayed Filtration by stating that "However, such high extracting temperatures (70 to 130 degrees C) and such long extracting time worsen the taste of the resulting coffee extract." (column 4, line 61). It goes on to teach recommended extracting times as a function of water temperature (column 5, line 24).

With respect to Levinson (US 6,231,909), it teaches away from Delayed Filtration in stating that "a predetermined amount of coffee grounds 2 are added to the boiled water and allowed to brew for a predetermined time, for example, four minutes. Whereupon, filter-plunger apparatus 23 with a permanent stainless steel mesh filter 17 on one end and a lid 4 and a plunger handle 24 on the other end, is inserted into cylinder container 1 and pressed down. Stainless steel mesh filter 17 filters brewed coffee 29 from spent grounds 2 and, thereafter, brewed coffee is poured out of container 1." (column 5, line 33).

With respect to Borland (US 6,352,736), this reference teaches away from Delayed Filtration in stating that "The coffee extract is prepared by subjecting roasted coffee beans to extraction under mild temperature conditions and using a low draw-off ratio.... The extraction may be carried out in a counter-current manner in one or more extraction vessels... The extraction is conveniently carried out in a battery of fixed bed reactors connected such that extraction liquid may flow through then in series." (column 2, lines 36-53). This concept of "draw-off" requires collecting and mixing the filtered extract in a collection (draw-off) tank from a cycle.

Lastly, with respect to Cheng (US 6,319,537), it teaches away from Delayed Filtration in stating that "The coffee extract may be produced in the usual manner by subjecting roasted coffee

beans to extraction. Any suitable extraction (assumes subsequent filtering) procedure may be used because the choice and design of the extraction procedure is a matter of preference and has no critical impact on the invention. ... Of course, the coffee base concentrate may also be prepared by dissolving soluble coffee powder in the water to the desired concentration." (column 2, line 64).

Regarding the filtration of a first and second extract

The Levinson reference teaches away from multiple periods/parts of filtration (filtration of a first and second extract) in stating that:

- In FIG. 8, nylon-mesh Lycra filter cover 9 illustrated is larger than is necessary so that when the coffee and coffee grounds are filtered there through, the large size permits filtering to take place in a pouch outside of container 1. Some may prefer this large size mesh as it creates a large surface area to speed filtering. Some may prefer this oversized mesh because the spent coffee grounds remain in the pouch for easy disposal. In contrast, as illustrated in Fig 7, some may prefer a tightly fitting nylon mesh that confines the spent coffee grounds to the interior of container 1. (column 9, line 23).
- In one embodiment, Fig 7, liquid and coffee grounds 2 are placed in container 1 and covered by nylon mesh Lycra filter cover 9. .... The brewing coffee may be allowed to further brew for a predetermined time. Thereafter, the brew 29 is poured and filtered out of the container 1 through nylon mesh filter cover 9. ...Nylon-mesh Lycra filter cover 9 is removed from container 1 emptied and rinsed. (column 9, line 43)
- "[A] predetermined amount of coffee grounds are added to the boiled water and allowed to brew for a predetermined time, for example, four minutes. Whereupon, filter-plunger apparatus 23 with a permanent stainless steel mesh filter 17 on one end and a lid 4 and a plunger handle 24 on the other end, is inserted into cylinder container 1 and pressed down. Stainless steel mesh filter 17 filters brewed coffee 29 from spent grounds 2 and, thereafter, brewed coffee is poured out of container 1." (column 5, line 33).
- The brewed coffee is filtered and poured into a second container. (column 11, line 23).

Regarding diluting the coffee extract after filtering but before dispensing

Reference Anson teaches away from delaying the dilution, and away from individual customization in stating that:

- "The brewed beverage 46 drains from the primary chamber 94 through the filter 96 and through a foramenous surface 102 towards a bottom of the primary chamber 94. Temperature reduction water 50 from the second water source 58 is combined with

brewed beverage 46 in a mixing chamber 104 defined between an outlet 106 of the funnel 26 and the intersection of the bypass section 100 with the outfeed from the foramenous structure 102. A brewed beverage 52 having a desired serving temperature is dispensed from the dispensing port 106 in to the receptacle 30 there below." (column 7, line 16).

- "As such, a quantity of hot water, "X", and a quantity of cold water, "Y" is combined to produce 64 ounces of brewed beverage." (column 4, line 48).
- "In use, the beverage brewing appliance 20 as shown in FIG 3 produces a brewed beverage upon initiation of a brewing cycle. When a brewing cycle is initiated the controller 70 operates the control valve 58 over control line 71 to controllably admit a predetermined quantity of water from the pressurized feedline 60 to the first and second water sources 28, 49." (column 6, line 44).

Further, Jefferson, Jr. teaches away from even dilution/by-pass brewing by stating, starting in column 2, line 29 "Another currently available coffee maker employs thermal pulse technology in combination with a diverter valve that diverts a portion of the heated water directly into the coffee pot below the brewing chamber, while the remainder of the heated water is directed into the brewing chamber. The diverted water dilutes the brewed coffee and reduces its perceived strength." Continuing on line 57, "Although each of the above-described coffee brewing systems are somewhat satisfactory for brewing small quantities of coffee, it has been found that the taste of coffee brewed using those systems is inconsistent over the range of volumes of coffee that those systems can produce." Thus, Jefferson, Jr. is concerned with consistent taste of coffee over ranges of volumes.

Thus, Applicants submit that the references of record either do not teach or suggest all of the limitations of the present application or teach away from the claimed features of the present application. Consideration in view of the remarks above is respectfully requested.

Conclusion

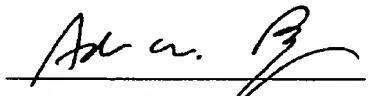
It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion.

For the foregoing reasons and in view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice of allowance is solicited. If, after reviewing this amendment, the Examiner feels that any

issues remain that must be resolved before the application can be passed to issue, the Examiner is invited to contact the Applicants' undersigned representative by telephone to resolve such issues.

Respectfully submitted,
THE PROCTER & GAMBLE COMPANY

By:



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